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REMARKS

In the outstanding action, the Examiner requires restriction under 35 U.S.C. § 121 between the following groups of claims:

- I. Claims 1-14, 17 and 18, drawn to a chemical toilet, classified in class 4, subclass 321;
- II. Claims 15 and 16, drawn to toilet and service vehicle, classified in class 4, subclass 661; or
- III. Claims 19-20, drawn to a toilet servicing method, classified in class 661.

Withdrawal of the raised restriction requirement is respectfully requested in view of the following remarks.

The Examiner characterizes the inventions of Groups I and II to be related as combination and subcombination. The Examiner then alleges that the subcombination has separate utility such as in the absent of a vehicle because the spray nozzles, etc., are not required. Claim 15 is amended to now depend from claim 2, which includes the spray nozzle features, and such amendment should overcome the raise rejection. It is noted that both claims 15 and 16 are properly dependent upon claim 1 and should be prosecuted simultaneously with claim 1.

Claims 19 and 20 are canceled, without prejudice or disclaimer of the subject matter therein, while the subject matter of claim 1 is now rewritten in independent form as new method claim 21. Accordingly, infringement of the Group III method claims will almost certainly produce a toilet in accordance with the apparatus claims of Group I as well as vice versa. Therefore, the Applicant respectfully submits that the product, as presently claimed, cannot be made by materially different method and the method, as presently claimed, cannot make a materially different product. In view of this, Groups I and III, at the very least, should be prosecuted concurrently with one another.

In requiring restriction, the Examiner also notes that the inventions are classified in different classes and subclasses, thus alluding to the fact that the inventions would involve

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divergent fields of search. However, as the Examiner is well aware, such a factor per se is not a basis for determining distinctiveness in accordance with MPEP 806.

Furthermore, it is respectfully submitted that there is nothing in 35 USC § 121 that gives the Patent Office the authority to require restriction between different statutory classes of claims unless the claims cover "independent" and "distinct" inventions. It is respectfully submitted that the statutory requirements have not been met for Groups I and II, for Groups I and III or for Groups II and III. Therefore, the Examiner should withdraw the requirement for restriction and provide the Applicant with an action on the merits for all claims contained within this application.

In summary, it is respectfully submitted that all of the pending claims are believed to be directed to a single inventive entity. However, so as to be fully responsive, the Applicant elects the invention disclosed in Group I (claims 1-14, 17 and 18) and, in view of such election, the Applicant further elects, as required by the Examiner, the species of the claimed invention as shown in Fig. 8. It is requested that, without further action thereon, any claims to be withdrawn, as the Examiner considers that response, be retained in this application pending disposition of this case and for possible filing of a divisional application(s).

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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